

**REPORT ON THE  
BOARD OF COSMETOLOGY**  
Montgomery, Alabama



**Department of  
Examiners of Public Accounts**

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September 28, 2005

Senator Larry Dixon  
Chairman, Sunset Committee  
Alabama State House  
Montgomery, AL 36130

Dear Senator Dixon:

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Board of Cosmetology** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Board of Cosmetology**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Jones", written in a cursive style.

Ronald L. Jones  
Chief Examiner



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## PROFILE

### Purpose/Authority

The Board of Cosmetology was first created by Act 653, *Acts of Alabama 1957*. The purpose of the board is to regulate the teaching and practice of cosmetology and to require the registration and licensing of cosmetologists, manicurists, estheticians, apprentices, students, and schools for cosmetologists, manicurists, and estheticians. The *Code of Alabama 1975*, Sections 34-7A-1 through 34-7A-25 provides the current statutory authority for the board.

### BOARD CHARACTERISTICS

<b>Members</b>	7
<b>Term</b>	No more than two 4-year terms.
<b>Selection</b>	Appointed by the governor with the advice and consent of the Senate.
<b>Qualifications</b>	<p>Five members must be active licensed master cosmetologists or instructor cosmetologists with at least five years practical experience in the majority of the practices of cosmetology.</p> <p>Two of the members <u>may</u> be consumers.</p>
<b>Racial Representation</b>	No specific statutory requirement; however, there is one minority member.
<b>Geographical Representation</b>	One member from each Congressional District.
<b>Consumer Representation</b>	According to the board's statutes, two members <b>may</b> be consumers. Currently there is one consumer member
<b>Other Representation</b>	"The membership of the board shall be inclusive and reflect the racial, gender, geographical, urban/rural, and economical diversity of the state."
<b>Compensation</b>	\$100.00 per day for transacting board business, not to exceed 50 days during any calendar year. Board members receive travel expense reimbursement at the same rate as state employees.

## **OPERATIONS**

### **Administrator**

Bob McKee, Executive Director  
Appointed by the governor, annual salary \$57,750.00.  
Salary set by the governor

### **Location**

100 North Union Street, Suite 320  
Montgomery, AL 36130

### **Type of License**

Personal licenses, business licenses and schools.  
Licenses issued as of May 2, 2005:

Personal Licenses	23,909
Shops/ Studios/Salons	6,463
Schools	<u>37</u>
Total Licensees	<u>30,409</u>

### **Renewal**

Personal licenses are renewed every two years in odd numbered years on the last day of the licensee's birth month.

Business licenses are renewed on the 30th of September in odd-numbered years.

### **Examinations**

The board administers the practical and written examinations of the National-Interstate Council of Cosmetology, Inc. A professional testing service (SMT) grades the written examination.

### **Continuing Education**

Instructors- 16 hours every licensing period from a board approved seminar.

Master Licensees – 16 hours of board approved continuing education to upgrade to a master license. While the law requires continuing education hours for renewal, the board has not defined the number of required hours.



**Reciprocity**

Reciprocal agreements with other states are not specifically authorized in the board's governing statutes. However, the board is allowed to license without examination any applicant who pays the fee, complies with the requirements for licensure and otherwise qualifies for licensure. Also if a licensee from another state or foreign jurisdiction has practiced cosmetology for at least five years and the requirements for licensure are substantially similar to Alabama's the board may issue a license without examination.

**Employees**

25

**Legal Counsel**

The Attorney General's Office has assigned Ms. Monet Gaines to the board.

**Subpoena Power**

No specific authority

**Internet Presence**

[www.aboc.state.al.us](http://www.aboc.state.al.us). The boards' web site contains:

- the board's location and contact information,
- forms for the licensing and renewal processes,
- names, contact information, district and expiration date of board members,
- the board's statutory authority and administrative rules,
- a calendar of meetings and events, including regularly scheduled board meetings,
- a fee schedule, and
- complaint information

**Attended Board Member Training**

The following attended the April 27, 2005 session of Board Member Training presented by the Examiners of Public Accounts:

- Board Members—Claire Mitchell and Janie C. Cheatham,
- Staff—Bob McKee, Executive Director; Jody Respass, Senior Accountant; Sabrina Hines, Account Clerk; and Shelia G. Paul, Account Clerk.

## **FINANCIAL INFORMATION**

<b>Source of Funds</b>	Licensing fees
<b>State Treasury</b>	Yes
<b>Unused Funds</b>	Retains unexpended funds.

## **SIGNIFICANT ITEMS**

1. **Although control of administrative affairs has been by law assigned to an executive director appointed by the governor, statutes do not clearly separate the powers and duties of the board versus the powers and duties of the executive director. This condition has led to disagreements between the board and the executive director as to who is responsible for control of some activities.** As with most professional licensing boards, the licensing statutes for the Board of Cosmetology prescribe powers and duties to be carried out under authority of the licensing law. However, unlike most professional licensing boards, the executive director is appointed by the governor rather than by the board and does not serve at the board's pleasure. In addition, the law authorizes the executive director to hire employees, rather than the board. This condition allows the executive director to carry out his administrative duties in the manner he deems appropriate, not as directed by the board. Also, a review of the duties of the board reveals that some of the board's prescribed duties are administrative in nature and would of necessity be carried out by the executive director.

<b>Board Powers and Duties</b>	<b><i>Code of Alabama 1975, Section</i></b>	<b>Executive Director Powers and Duties</b>	<b><i>Code of Alabama 1975, Section</i></b>
To do all things necessary and convenient for enforcing the chapter	34-7A-3(d)	The executive director serves at the pleasure of the governor. The executive director is responsible for hiring all necessary employees, subject to the state's Merit System. By definition an executive director is responsible for the administrative affairs of the agency.	34-7A-4(b)

To promulgate necessary rules and regulations compatible with the chapter	34-7A-3(d)		
To refuse to grant, or may revoke or suspend, a license or a certificate of registration upon proof of violation of the chapter or any rule or regulation promulgated by the board.	34-7A-15(a)		
To levy and collect an administrative fine of not more than five hundred dollars (\$500) per violation for serious violations of the chapter or the rules or regulations of the board.	34-7A-15(c)		
To establish the recommended number of credit unit hours, including all phases necessary to produce competent practitioners, in each profession regulated by the board	34-7A-3(e)		

To promulgate guidelines for approved seminars of continuing education	34-7A-3(e)		
To prescribe procedures for the examination of applicants for licensure	34-7A-7(b)		
To compile and publish all rules and regulations, together with a copy of the chapter, and to distribute the same to all licensees	34-7A-3(d)		
To keep a permanent record of its proceedings	34-7A-8(a)		
To keep a register of all applicants for a certificate or licensure	34-7A-8(b)		

### **Response**

The law was changed to provide for the governor to appoint the executive director because the legislature did not believe the board could otherwise continue. As a practical measure the law could be changed to more clearly define administrative functions, but the present arrangement should be no barrier to effective operation of the board.

## **STATUS OF PRIOR FINDINGS**

### **UNRESOLVED PRIOR FINDINGS**

2. **PRIOR CONDITION - Board member attendance and participation in examination rater training may have precipitated an ethics violation.** Board members who are instructor cosmetologists and cosmetology school owners participated in examination rater training and were given access to cosmetology examination questions. This exposure provided the instructors with confidential information not available to other cosmetology instructors and school owners.

The *Code of Alabama 1975*, Section 36-25-8 provides that “No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business.”

The Board of Cosmetology uses an examination owned and prepared by the National Interstate Council of State Boards of Cosmetology (NIC). In accordance with NIC guidelines, the board contracts with master and inactive instructor level cosmetologists to proctor and grade the examination. The contractees are known as ‘raters’.

The board requires raters to sign an agreement that contains provisions that disqualify active instructors, master cosmetologists with apprentices, and master cosmetologists working in salons with apprentices from participating in the examination process as raters in order to prevent a conflict of interest. Historically, Alabama board members have helped to administer and rate examinations; however, cosmetology school owners and instructors were precluded from rater training and did not serve as raters.

On September 25 and 26, 2004, the board held a rater training session to familiarize raters with examination administration and grading procedures for the practical portion of the examination. The rater training course is required by NIC and is conducted by NIC personnel. The board’s chair and vice-chair, who are instructor cosmetologists and cosmetology school owners, attended the rater training session but did not sign the board’s rater agreement. During the training, the raters and the attending board members were exposed to actual questions used on many examinations.

**Current Status:** This finding remains unresolved. The board has not implemented a policy restricting school owners/instructors from attending rater training sessions. Board members still attend the examinations; however, they do not rate examinees unless an emergency exists. The two board members who are school owners/instructors have not rated examinees. Annual rater training occurs in September. The board has not provided a policy statement as to whether school owner/instructor members will attend the training.

**Response:** On July 25, 2005 the board adopted a resolution as reflected in official minutes that no board member who is a school owner shall attend rater training or actively participate in rating of candidates for licensure. However, they can attend exams to observe and read instructions.

3. **PRIOR CONDITION** – An exemption in the board’s governing statutes allows the proliferation of unlicensed barbershops offering essentially the same services as cosmetologists, which reduces the board’s ability to regulate the practice of cosmetology and protect the public safety and welfare. The *Code of Alabama 1975*, Section 34-7A-1(9) defines cosmetology as “ any one or a combination of practices: arranging, dressing, curling waxing, weaving, cleansing, cutting singeing, bleaching, coloring, or similar work upon the hair of any person, by any means, and/or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or otherwise, massaging, cleansing, stimulating, exercising, beautifying, or similar work on the scalp, face, neck, arms, legs, feet, hands, bust or upper part of the body, or manicuring nails of any person or adding nail tips, extensions, gels, or other articles to nails, or performing desairology, the art and science of dressing and arranging the hair nails and clothing of the deceased.”

The *Code of Alabama 1975*, Section 34-7A-19(3) provides and exemption from licensure for “The services of any barber, including barber’s apprentices and shop boys, when engaged in any of the following practices: (a). Arranging, cleaning cutting, styling, dressing, curling, applying permanent curling or styling solution, waving, bleaching, coloring, applying any cosmetic chemical preparation to or singeing the hair of any person (b). Massaging, cleansing, stimulating, exercising, or similar work upon the scalp, face or neck of any person with the hands, or with mechanical or electrical apparatus or appliance, or by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.”

Owners of unlicensed shops who do not want to become licensed can apply for a business license as a barbershop and register with a local barber board, if there is one. Currently six counties, Baldwin, Etowah, Jefferson, Lauderdale, Madison, and Mobile, have local barber boards. Barbering is not professionally licensed in the rest of the state. Once such shops are registered as barber shops, the Board of Cosmetology has no jurisdiction over them and cannot by law interfere with their practices as barbers. Similarly, unlicensed personnel can operate as barbers and again, the board has no jurisdiction over them.

**Current Status:** Unless an unlicensed shop or its personnel are performing nail services, there is no legal requirement for the shop or personnel to become licensed, as the definitions of cosmetologist services and the barber services exempted from the cosmetology licensing law are substantially the same. A review of “problem” inspections (unlicensed shops, shops with license violations, shops with low inspection scores, shops that could not be inspected) from 09/01/04 through 07/06/05 shows of 309 problem inspections, 63, or 20%, reported shops that have never been licensed, and 150, or 49%, had licensing violations. License violations include operating a shop on an expired license or hiring unlicensed personnel. The board’s procedure upon discovering an unlicensed shop or unlicensed personnel is to explain cosmetology is a licensed

profession in Alabama and to leave applications for licensure with the shop manager.

**Response:** Alabama is the only state in the union with such confusing and convoluted laws relating to cosmetology and barbering. Amending the barbers' exemption to a more logical and restrictive policy would substantially solve this problem. Under present circumstances, this seems an unlikely possibility. The second option would be to pass legislation creating a statewide barber board. It is not unreasonable to believe that a profession which has such implications for affecting the health of thousands of our citizens on a daily basis should have at least minimal standards of regulation.

It should also be noted that several other exemptions are overly broad and illogical.

Legislation to address these and other needed changes was introduced in the 2005 regular session of the legislature. Unfortunately, the barber exemption was stripped before the bill could even be considered, and the bill was reported from committee too late to have a fair chance of passing.

No matter how much improvement is made administratively, this board will never be able to fulfill its legal mandates without one of the fundamental changes noted above. Except for nail technology and counties with local barber boards or commissions, this board is virtually a voluntary licensure agency.

4. **PRIOR CONDITION: Follow-up of poor salon inspection scores was not timely.** The *Code of Alabama 1975*, Section 34-7A-15 gives the board the authority to revoke or suspend a license or certificate of registration upon proof of violation of the cosmetology licensing law. According to the board's Administrative Rule 250-X-3-.02, salons receiving a score of less than eighty have thirty days to correct the deficient areas. If salons receive a score of less than eighty on the second inspection they are in violation of the board's practice act. As of August 2004, a review of low score inspections from 12/2/03 through 8/31/04 showed that of 21 inspections reviewed, re-inspection occurred between 19 and 111 days after the low score inspection. The condition of untimely re-inspections is not resolved.

**Current Status:** This item is not yet resolved. A review of 96 inspections of licensed shops receiving scores lower than 80 from 9/1/2004 through 7/6/2005, reveals re-inspection occurred between 9 and 225 days after the initial low score inspection. A table showing the time from the date of the low inspection to re-inspection (or to 7/06/05 if still open) follows on the next page.

Days from Inspection to Re-inspection	Number of Inspections		Percent of Inspections Reviewed	
	2005	2004	2005	2004
0 to 30 days	15	4	15.6%	19.0%
31 to 40 days	5	6	5.2%	28.6%
41 to 50 days	14	2	14.6%	9.5%
51 to 60 days	10	3	10.4%	14.3%
61 to 70 days	14	2	14.6%	9.5%
71 to 80 days	16	2	16.7%	9.5%
81 to 90 days	3	1	3.1%	4.8%
91 to 100 days	4	0	4.2%	0.0%
More than 100 days	15	1	15.6%	4.8%
Total	96	21	100%	100%

The 30-day time limit for re-inspection is not specifically stated in rule 250-X-3-.02, but is implied as the board cannot tell if deficiencies have been corrected within 30 days unless a second inspection is performed within that time frame. The executive director submitted an amendment to rule 250-X-03-.02 on July 12, 2005, changing the time period for corrections from 30 to 90 days. He states that for some practice violations, 30 days is an unrealistic time period for shop owners to effect corrections. In addition, the process by which inspections are currently performed, recorded, and assigned is unwieldy and time consuming. Inspectors submit inspection reports bi-weekly with their time sheets and travel claims. Inspection reports are sorted and routed to various staff members who record information into the licensing database and then either file the reports in the licensee files or input the information into the re-inspection worksheet. Re-inspections are assigned on a regional basis along with regular inspections, rather than on a chronological basis. The inspectors perform inspections by locality, minimizing travel, rather than by prioritizing re-inspections and then performing regular inspections. The problems with the inspection process have recently been brought to the agency's attention with the discovery of fraudulent activity on the part of an inspector. The executive director stated that with more control and improved procedures for re-inspections and a workable time frame for re-inspections, timeliness of re-inspections will become standard.

**Response:** As referenced in Item 3, the overlapping definitions of barbering and cosmetology make it very difficult to conduct inspections with desired consistency. Salons which were never licensed with the board but are practicing cosmetology under the exemption of "barbering" comprise one category over which we have no control. Salons which have been licensed but allowed the license to expire are another category, and it is not certain that we have regulatory authority over these. However, we assume that if a salon was recently licensed and simply allowed the license to expire we can cite that salon for not being



licensed. If they declare themselves a barber shop, then we may not legally conduct an inspection.

To expedite the inspection process we have separated license violations from general and sanitation violations. Salons with license violations are issued “0” but may not require follow-up inspections, since the salon or individual may promptly comply with licensure law.

General and sanitation violations are designated for proper follow up, but this process is impacted by our policy of sending a different inspector to conduct re-inspections. The inspection report from the first visit often may not be in the office in time for a follow-up visit to be assigned and made by a separate inspector within thirty days. However, if the violation is considered a critical health issue it is given priority, and a re-inspection is conducted right away.

The Board has adopted a rule change which will allow ninety days for re-inspections. As noted, this change has been submitted to the Legislative Reference Service in accordance with the Administrative Procedure Act. Under this provision we will be able to deal with problem salons and marginal violations in a more effective manner.

- 5. PRIOR CONDITION: The board remains unsuccessful in implementing a new licensing database.** In the 1997-98 fiscal year, the board entered into a contract with Camber, Inc. to develop a database to process licenses. Camber delivered a database, but the newly appointed executive director decided that the system did not meet their needs and refused to pay Camber for its services. Camber filed a claim with the State Board of Adjustment and was paid \$129,000.00 in the 1999-00 fiscal year. In September 2002, a contract was executed with the Department of Finance, Information Systems Data System (ISD) to develop a Microsoft Access database to process licenses, at a cost of \$10,043.75. According to ISD and the office staff, the system was never tested to determine if it was adequate. When a new executive director was appointed in March 2003, the staff tested the system and determined that the system was inadequate and that a private vendor should be selected to develop a system.

By August 2004, after conducting request for proposal procedures, the board selected a database product from G. L. Suite of Bend, Oregon for the new licensing database. The board is preparing a contract to be submitted at the October Contract Review Committee meeting. The three-year contract includes hardware, software, installation, training and technical support for a total of \$89,000. If the contract is reviewed and approved in October, the system is projected to be installed and implemented by February 2005

**Current Status:** The status of this significant item remains unchanged; however, there has been significant progress towards resolution. The contract for the new

database was reviewed and approved. G. L. Suites of Oregon and the executive director anticipate that database development and data conversion to be complete by June 30, 2005. The database will be installed July 25 through 29, 2005, with testing and training immediately following.

**Response:** For a period of several months during the spring and summer of 2005, G. L. Suite, provider of a new system, worked with office staff and ISD to extract and transfer data from the existing system to a new comprehensive license and complaint tracking system. After installation and testing to identify necessary changes and adjustments, a technician from G. L. Suite visited the Board office from July 27-29, 2005 for on site instruction. When fully operational the system will enable the staff to account for and track data from the logging of correspondence to deposits and ledger balancing on a daily basis. Although a few adjustments remain to be made, the staff is now using the system and becoming familiar with its capabilities. This is a major advancement in the Board's ability to have ready and convenient access to all records. In addition, we will be able to scan licensee photos onto licenses which we will print at the board office instead of relying on an outside entity for this service.

6. **PRIOR CONDITION:** Although it is tasked by law with doing so, the board has not established a workable administrative rule governing continuing education for renewal of license for master cosmetologists, master manicurists and master estheticians. According to the *Code of Alabama 1975*, Section 34-7A-22(12), any person licensed as a managing cosmetologist, managing esthetician, or managing manicurist, who pays the original licensing fee and *completes a course of study in continuing education approved by the board within a licensing period*, may be issued a master license. Board Rule 250 X-2-.04 requires licensees with master's license to attend continuing education courses from a board-approved continuing education provider in order to renew their licenses. However, *the rule does not specify how many continuing education hours are required*. In absence of a specified number of hours, the staff has followed board Rule 250-X-5-.13 pertaining to renewal of instructor licenses that requires instructors to attend sixteen hours of continuing education at least once during each two-year licensing period.

By August 2004, the board properly amended its administrative rule 250-X-2-.04 to include sixteen hours as the number of continuing education hours necessary to be initially licensed at the master cosmetologist level, but did not carry forward the requirement from the old rule that continuing education hours were also a prerequisite at each renewal in order to continue to be licensed at the master cosmetologist level.

The board's current practice is to require sixteen hours of continuing education as contained in the amended rule in order to upgrade the license to a master cosmetologist level and impose the former rule's requirement of submitting sixteen continuing education hours, as required of instructors, at each renewal as a

requirement of continuing to be licensed at the master cosmetologist level. When informed of the lack of renewal requirement in the amended rule, the executive director stated he had not realized the discrepancy existed and would have the amended rule corrected.

**Current Status:** This significant item is in the process of being resolved. The *Code of Alabama 1975*, Section 34-7A-22(12) states, "The master license is an optional license available upon renewal to those licensees who voluntarily complete the continuing education requirements." Rule 250-X-2-.04 continues to omit the number of hours necessary for renewal of the master's level license. The executive director has submitted corrections to the rule to include continuing education hours for renewal to the Legislative Reference Service on July 12, 2005.

**Response:** The absence of specific hour requirements for continuing education to maintain master status was simply overlooked when the noted rule change was earlier adopted and submitted. An amendment to correct the language has been adopted and submitted to the Legislative Reference Service in accordance with the Administrative Procedure Act.

#### **THE FOLLOWING PRIOR FINDINGS HAVE BEEN RESOLVED**

7. **PRIOR CONDITION - The loss of applications and checks led to the implementation of monitored licensing procedures.** On January 16, 2004 board staff discovered that 40 applications and attached fees received on December 9 and 10, 2003 were missing, although information from the applications had been input into the computer database, and licenses had been issued and mailed. A review of deposit records revealed the receipts had not been deposited. The applications and receipts were not found after an extensive search of the board's office and basement storage area. The capitol police were informed, and a report was filed.

The licensees were contacted and to date, none of the fees (checks and money orders) have been paid by any of the issuing institutions. The board contacted the licensees and explained that through a paperwork processing error the receipts had not been deposited into the board's account and requested licensees voluntarily reissue payment documents. Fourteen licensees have sent in payments, six net of service charges to stop payment of the misplaced negotiable instruments. The missing receipts totaled \$3,265.00. The board has recovered \$934 to date.

As a result of the loss of applications and receipts, regimented application processing procedures were implemented. The procedures assign responsibility for certain actions to employees and require employees to log and date their handling of each receipt and/or application, from the moment applications and

payments are received to the mailing of licenses. Currently, the receipts are removed for processing and deposit from the applications as soon as they are entered into the mail log. The payments are noted directly on the applications, which are bundled for review and input into the database. Receipts are deposited promptly, frequently on a daily basis. Licenses are printed by the Information Services Division (ISD) of the Department of Finance. A printing report provided by ISD is compared to the applications before licenses are mailed. Errors or discrepancies are resolved, licenses are mailed and the applications are filed. The process log gives board staff the ability to track applications, records the processing time of applications, and documents any problems with applications plus the resolution of the problems.

**Current Status:** This finding has been resolved. There have been no more applications or receipts lost since the implementation of current procedures.

8. **PRIOR CONDITION - The loss of an examination booklet led to increased security procedures over testing materials.** On April 23, 2003, board staff discovered that an examination booklet for the written cosmetology examination given on April 22, 2003 was missing. The booklet was not found after a search of the board's offices and the test site, and interviews of staff and examination raters did not provide information sufficient to locate the booklet. The examination booklets are the property of the National Interstate Council of State Boards of Cosmetology (NIC), the developer of the examination. The NIC lodged a complaint against the Alabama Board which included a \$16,000 fine. The Executive Director of the Alabama Board of Cosmetology petitioned NIC to waive the fine in return for personal assurance of direct responsibility for exam security in the future. The fine was waived. As a consequence, procedures for safeguarding the examination materials have been implemented which provide a locked storage area for the test materials, restrict access to the materials to a limited number of people, require counts of materials before and subsequent to the examination and before mailing, log the books according to the candidates who used them, and require the personal supervision of the executive director over all phases of the examination.

**Current Status:** This finding has been resolved. There have been no further examination booklets lost and security procedures are working effectively.

9. **PRIOR CONDITION: Errors and untimely processing of financial and personnel transactions have occurred.** We noted that travel claims for employees and board members were often paid in error. Personnel transactions were not processed in a timely manner, resulting in employees taking leave in excess of available balances and receiving pay when they should have been placed on leave without pay. For the 2002-03 fiscal year, we noted sixteen overpayments for improper travel and payroll expenses. One board member commuting from a distance of less than 50 miles received unallowable overnight travel allowances in conflict with the "Department of Finance Fiscal Policy and

Procedures Manual. It has been necessary to recover overpayments from the members of the board and from employees.

As of August 2004, a review of 47 travel vouchers from the 2003-2004 fiscal year indicates that many errors in paying travel claims found in previous fiscal years have not been repeated. However, on two travel claims, a meal allowance was paid in error. A meal allowance is paid when a person is in travel status more than six hours but less than twelve hours. I reviewed a sample of time sheets and compared the annual and sick leave usage to the associated GHRs monthly leave report. From time sheets sampled, I could find no discrepancies in the use and posting of leave.

**Current Status:** This significant item appears resolved. A sample of 54 travel vouchers from September 2004 through June 2005 indicates that travel claims are being processed correctly with meal allowance, per diem and mileage paid as required by law.

**10. PRIOR CONDITION:** The board adopted guidelines for continuing education seminars, but did not establish an administrative rule to that effect and was not consistent in applying its adopted application deadline. The *Code of Alabama 1975*, Section 34-7A-3(e) requires the board to promulgate guidelines for approved seminars of continuing education. The board did not develop an administrative rule containing the guidelines according to the process required by the state's Administrative Procedure Act. However, in the 2001 calendar year, the board developed an application packed to be completed by prospective continuing education sponsors/providers and required to be submitted 90 days prior to the seminar date. At some unrecorded time during the calendar year 2002, the board decided to relax the 90-day requirement, and sponsors were allowed to file at any time. The application process was again revised in January 2003 to again include a requirement that all sponsors desiring to provide continuing education seminars must submit their requests 90 days prior to the seminar date. According to the March 3, 2003 board meeting minutes, the board approved two continuing education seminars by unanimous approval. Two board members who voted for approval were also officers of the professional association that sponsored the seminars and submitted them for approval. One of the board members personally presented the seminar to the board for approval at the meeting. There was no application packed on file to indicate that application for approval of the seminar was subjected to the normal review process. The same board member also presented another seminar for approval at a June 23, 2003 board meeting. The seminar was approved to take place on August 17 and 18, 2003, less than the 90-day lead-time requirement adopted by the board.

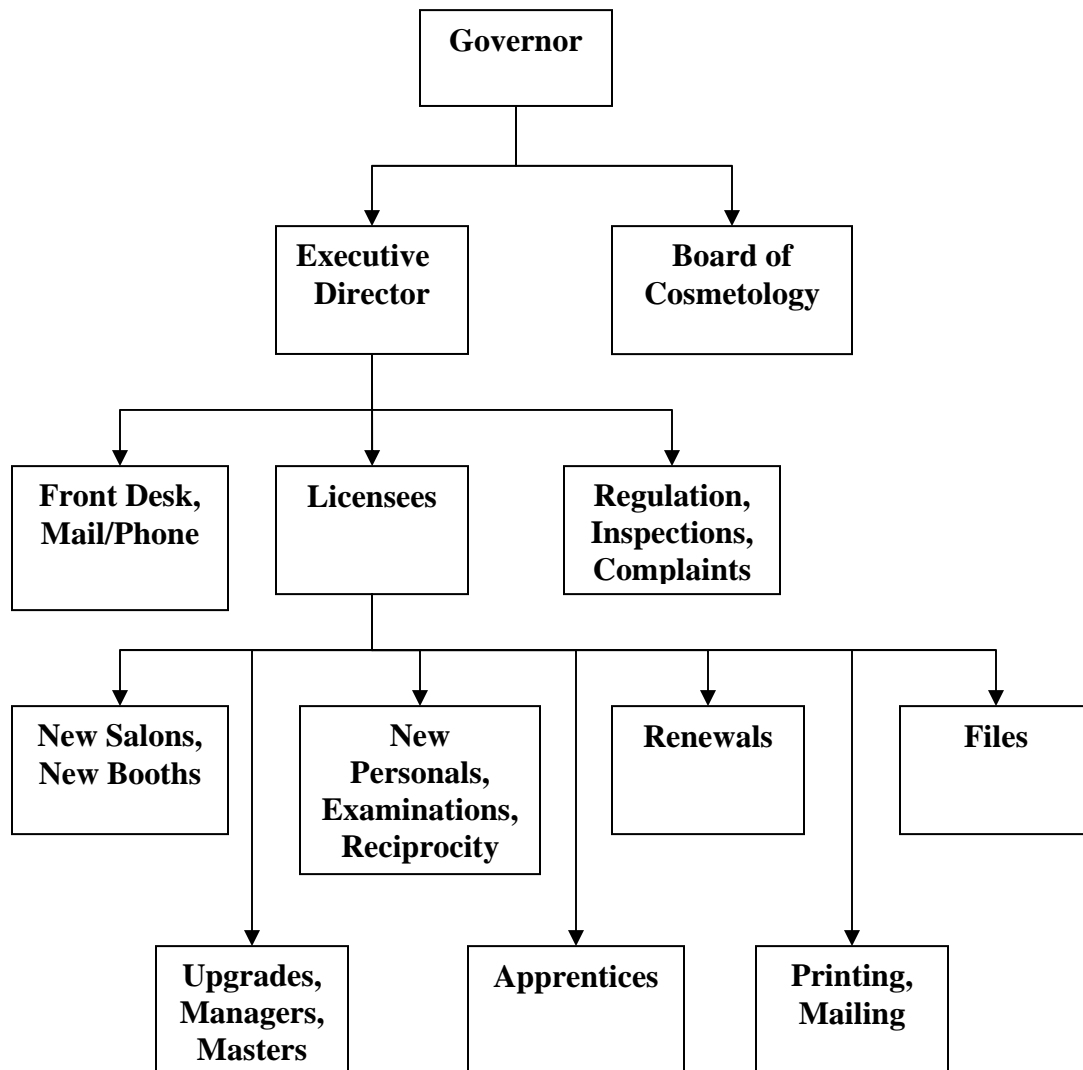
As of August 2004, the board created and properly filed the rule for requirements for continuing education providers following Administrative Procedure Act requirements. The rule codifies the board's informal guideline that continuing education providers submit applications for seminars approved 90 days prior to

the date(s) of the seminar. **Rule 250-X-2-.08 Requirements for Continuing Education Providers** states, “(1) Applications to sponsor continuing education seminars must be submitted to the Board office at least ninety (90) days before the date seminars are to be held. (2) In unusual circumstances the Board may grant exceptions to the ninety (90) day requirement in (1) above if seminars would have otherwise met all adopted guidelines. Requests for exceptions must be made in writing to the Board.”

Lack of consistent application of board practices regarding timely submission of continuing education seminars remains unresolved. Although the board properly adopted an administrative rule for its actual practices, the board is not always following the rule. From June 23, 2003 to present (August 31, 2004), the board reviewed sixty-three continuing education seminars. Of these, the board inappropriately approved four continuing education seminars that were not submitted or revised and resubmitted 90 or more days before the date of the seminar. There is no indication in the minutes of board meetings associated with seminars or in the education seminar files that any person requested a waiver of the 90 day submission rule. Adherence to administrative rules is binding on both the board and to the persons to whom the rules apply.

**Current Status:** This significant item appears resolved. The board considered 38 applications for continuing education seminars received from September 1, 2004 through May 30, 2005. All seminar applications were received prior to the 90 day time limit or an exception request was filed.

## ORGANIZATION



## PERSONNEL

The board presently employs twenty-five persons, consisting of one executive director, and twenty-four classified merit system employees. The executive director is appointed by the Governor. The Attorney General's Office provides legal services for the board.

### Schedule of Employees

Merit System Classification	Number of Employees	Gender	Race	
			African- American	Caucasian
Executive Director	1	M		1
Senior Accountant	1	F		1
Account Clerk	3	F		3
Clerk	1	F		1
Administrative Support Assistant III	1	F		1
Administrative Support Assistant II	2	F		2
Administrative Support Assistant I	4	F	3	1
Part-Time Administrative Support Assistant I	1	F		1
Laborer	1	M		1
Temporary Clerical Aide	1	F	1	
Temporary Clerical Aide	1	M	1	
Inspectors	8	F		8
Total	25	22 F/3 M	5	20

## PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – 1,216

Total Expenditure per Licensee (2003-2004 fiscal Year) - \$40.74

Number of Persons per Licensee in Alabama and Surrounding States

State	Population (Estimate)	Number of Licensees	Persons Per Licensee
Alabama	4,530,182	30,409	149
Florida	17,397,161	64,169	271
Georgia	8,829,383	61,700	143
Mississippi	2,902,966	27,929	103
Tennessee	5,900,962	60,000	98



## **Notification to Licensees of Board decisions to Amend Administrative Rules**

The board complied with procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are being notified of proposed changes through a draft of proposed rules posted on the board's website. In addition, the Board is mailing newsletters including updated rule information.

## **Complaint Resolution**

<b>Year:</b>	<b>Complaints Received:</b>	<b>Resolved In:</b>			
		<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>Pending</b>
<b>2003</b>	77	69	8		
<b>2004</b>	66		51	11	4
<b>2005 (1)</b>	52			28	24

1. through June 8, 2005

## **Complaint Process**

Board Rule 250-X-1-.01 through 250-X-1-.11 provide the procedures for documentation, receipt, and investigation of complaints relating to board licensees/illegal practices and procedures for hearings before the board. The Board records complaints in a log which tracks the process of the complaint and is adequate to monitor complaint status.

### **Initial Documentation**

- Complaints must be in writing, signed by the complainant.
- Complaints can be faxed or mailed to the board's office.
- A form is provided in downloadable form on the board's website or in hard copy to be mailed.
- Complaints are logged when received and tracked through the investigation/resolution process

### **Anonymous Complaints**

The board does not investigate anonymous complaints. The board's administrative code defines a complaint as a written document signed by the complainant.

### **Board Generated Complaints**

The board has the authority, either through routine inspection or on the basis of information received, to conduct an investigation or inspection and file a complaint against a licensee.

**Investigative Committee**      The investigative committee is composed of the executive director, the board's attorney and a member of the board. The board member is required to recuse him- or she from disciplinary proceedings related to cases where he or she was on the investigative committee.

**Administrative Process**      If the investigative committee determines probable cause:

- A summons and administrative complaint is prepared which complies with due process requirements and is delivered to the respondent by certified mail or personal service.
- An administrative hearing is scheduled within two months of the date of the summons.
- The board's attorney serves as its prosecuting attorney and the hearing is conducted by the board or by a hearing officer.

If no probable cause is determined by the investigative committee:

- The investigation is terminated and the complaint against the licensee is closed.

The board reserves the right, at any time during the investigative process, to enter an informal settlement (consent order) with the respondent. The terms of the informal settlement must be ratified by the board and incorporated in its official minutes.

The board or its hearing officer may consolidate in whole or in part any two or more administrative proceedings whenever it appears the matters are substantially related and such consolidation would expedite or simplify issues.

All motions, except those made orally on the record during an administrative hearing shall be in writing and shall state the ground in support of motions, describe the relief sought, and include any legal authority relied upon for relief. The non-moving party may be permitted to file a response to any motion. Any party may submit affidavits or other legal evidence in support of a motion or response.

Pre-Hearing Procedures	<p>The time requirements for conducting and administrative hearing may be waived by the filing of a written joint motion of the parties.</p> <p>The board of its hearing officer may require the parties to appear at a specified time and place in advance of the hearing for pre-hearing conferences to determine certain issues which could expedite the hearing process.</p> <p>Pre hearing discovery will be permitted so long as the discovery will not unreasonably delay proceedings, has significant probative value to the issues involved, will prevent fraud or undue surprise, or will provide fundamental fairness to the parties to the hearing.</p>
Hearing Procedures	<p>The Board or a Hearing Officer will preside at administrative hearings.</p> <p>The respondent will enter a “guilty” or “not guilty” plea.</p> <p>Evidence will be presented by direct and cross-examination of witnesses and documentary evidence may be presented.</p> <p>Subsequent to the hearing, the Administrative Hearing Officer will submit a recommendation to the Board, including a procedural summary of the case, findings of fact, conclusions of law, and a recommended decision.</p> <p>Within 60 days of receipt of the Hearing Officer’s recommendations, the Board will issue its order.</p> <p>If the Board presides at the hearing, the order will be issued 60 days after the receipt of the transcript of the hearing. In such case, the order will contain all of the elements of the Hearing Officer’s recommendations.</p>
Penalties	<p>The Board may:</p> <ul style="list-style-type: none"> <li>• Issue public or private reprimands</li> <li>• Remove, revoke or suspend licenses</li> <li>• Levy and collect administrative fines up to \$500, and</li> <li>• Enter into informal settlements or consent orders</li> </ul>

## FINANCIAL INFORMATION

### Schedule of Fees

The *Code of Alabama 1975*, Section 34-7A-11 authorizes the board to set fees. The following fees have been set.

<u><i>Fee</i></u>	<u><i>Administrative Rule</i></u>	<u><i>Amount As of July 1, 2005</i></u>	<u><i>Amount Prior to Fee Change</i></u>
Original License Fee	250-X-9	\$15.00	\$15.00
Examination Fees			65.00 (1)
Written Examination	250-X-9	75.00	
Practical Examination	250-X-9	45.00	
Personal Renewal and Activation Fee	250-X-9	80.00	80.00
Inactive Renewal Fee	250-X-9	35.00	35.00
Salon Original Fee	250-X-9	150.00	150.00
New Salon in Renewal Year			
Between January 1 and September 1	250-X-9	100.00	(2)
Salon Type Change Fee	250-X-9	150.00	(2)
Salon Name Change Fee	250-X-9	25.00	(2)
Salon Owner Change Fee	250-X-9	25.00	(2)
Salon Relocation to a Different County	250-X-9	150.00	150.00
Fee			
Salon Relocation within Same County	250-X-9	50.00	50.00
Salon Renewal Fee	250-X-9	100.00	100.00
Booth Original Fee	250-X-9	80.00	(3)
New Booth in Renewal Year between			
January 1 and September 1	250-X-9	50.00	(3)
Booth Relocation Fee	250-X-9	25.00	(3)
Booth Renewal Fee	250-X-9	80.00	(3)
Booth Relocation Fee	250-X-9	25.00	(3)
School Original Fee	250-X-9	300.00	300.00
New School in Renewal Year			
between January 1 and September 1	250-X-9	200.00	(2)
School Renewal Fee	250-X-9	150.00	150.00
Reciprocity Fee	250-X-9	100.00	100.00
Shampoo Assistant Original Fee	250-X-9	40.00	40.00
Shampoo Assistant Renewal Fee	250-X-9	40.00	40.00
Apprenticeship Fee	250-X-9	40.00	80.00
Apprentice Change of Master or Salon	250-X-9	25.00	
or Both			(2)
Demonstrator License Fee	250-X-9	15.00	15.00

<u><i>Fee</i></u>	<u><i>Administrative Rule</i></u>	<u><i>Amount As of July 1, 2005</i></u>	<u><i>Amount Prior to Fee Change</i></u>
Reinstatement Fees:			
Expired 1999 and Earlier	250-X-9	330.00	330.00
Expired 2000 and Later	250-X-9	250.00	250.00
Late Fee	250-X-9	25.00	25.00
Duplicate License Fee	250-X-9	25.00	25.00
Upgrade License (not during renewal month)	250-X-9	15.00	15.00
Printed Mail Labels	*Cost Recovery	200.00	200.00
List of Licensee Address for Complete State	*Cost Recovery	100.00	100.00
List of Licensee Address by County	*Cost Recovery	25.00	25.00
Diskette of all Licensee Addresses	*Cost Recovery	70.00	70.00
List of Licensee Address sent by E-Mail	*Cost Recovery	60.00	60.00
	* Fees appear to be high because all lists are prepared by Department of Finance (ISD).		

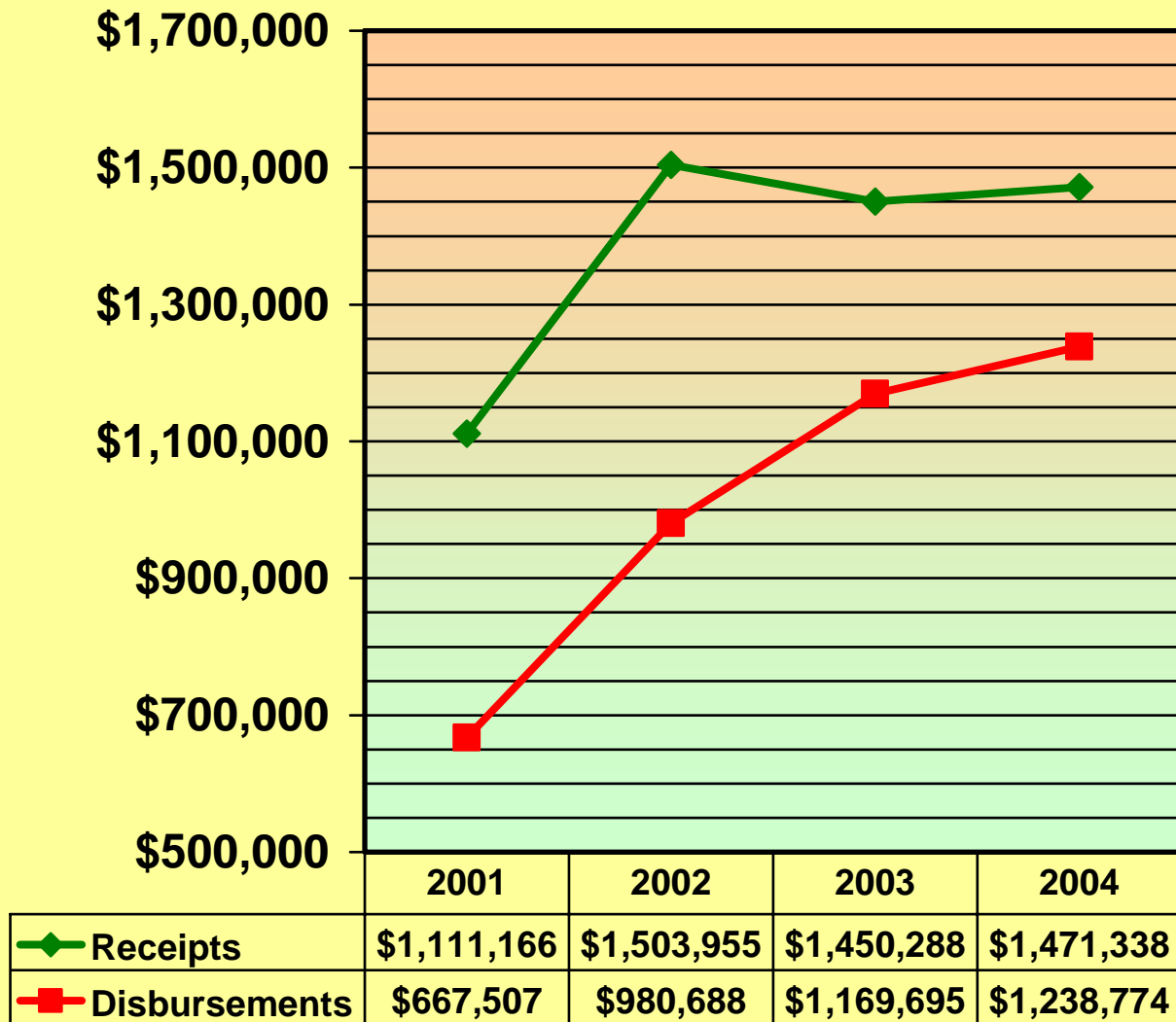
1. Prior to July 2005 the board charged one fee for both the written and practical parts of the examination.
2. New fees that did not exist prior to July 2005
3. Prior to July 2005, booths in an established salon were treated, for licensing purposes, as a business and equivalent to a salon.

## Schedule of Operating Receipts, Disbursements, and Balances

**October 1, 2000 through September 30, 2004**

	<b><u>2003-2004</u></b>	<b><u>2002-2003</u></b>	<b><u>2001-2002</u></b>	<b><u>2000-2001</u></b>
<b><u>Receipts:</u></b>				
Certification and Examination Fees	\$ 1,466,267.47	\$ 1,448,098.31	\$ 1,503,464.40	\$ 1,109,501.11
License Registration Lists	2,965.00	2,190.00	490.00	1,665.00
Salvaged Equipment	2,106.21	-	1.09	-
Total	<u>1,471,338.68</u>	<u>1,450,288.31</u>	<u>1,503,955.49</u>	<u>1,111,166.11</u>
<b><u>Disbursements:</u></b>				
Personnel Costs	541,324.86	442,494.88	364,197.78	249,635.59
Employee Benefits	206,065.26	151,500.38	126,852.97	96,366.31
Travel-in-State	172,296.94	173,772.54	166,464.96	73,608.21
Travel-out-of-State	7,191.19	9,391.25	3,654.99	1,951.37
Repairs and Maintenance	1,424.58	-	-	235.00
Rentals and Leases	97,728.90	101,463.90	86,668.14	72,930.31
Utilities and Communications	53,300.59	63,285.76	43,544.36	35,458.05
Professional Services	109,378.87	163,366.26	129,561.06	104,987.66
Supplies, Materials, and Operating Expense	45,022.09	49,050.32	56,128.59	22,808.92
Transportation Equipment Operations	653.36	877.57	1,266.35	856.75
Other Equipment Purchases	4,387.98	14,493.00	2,349.00	8,668.98
Total	<u>1,238,774.62</u>	<u>1,169,695.86</u>	<u>980,688.20</u>	<u>667,507.15</u>
Excess (Deficiency) of Receipts Over Disbursements	232,564.06	280,592.45	523,267.29	443,658.96
Cash Balance at Beginning of Year	<u>2,637,441.17</u>	<u>2,356,848.72</u>	<u>1,833,581.43</u>	<u>1,389,922.47</u>
Cash Balance at End of Year	2,870,005.23	2,637,441.17	2,356,848.72	1,833,581.43
Reserved for Year-end Obligations	(117,796.13)	(54,098.19)	(52,859.25)	(80,568.97)
Unobligated Cash Balance	<u>\$ 2,752,209.10</u>	<u>\$ 2,583,342.98</u>	<u>\$ 2,303,989.47</u>	<u>\$ 1,753,012.46</u>

Operating Receipts vs. Operating Disbursements (Chart)







## APPENDICES

### Statutory Authority

#### **CHAPTER 7A. ALABAMA BOARD OF COSMETOLOGY.**

##### **HISTORICAL NOTES**

##### **HISTORY**

Effective date:

The act which added this chapter is effective June 3, 1999.

##### **Code Commissioner's Notes**

Act 99-345, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7-1 to 34-7-47, inclusive, is continued pursuant to this newly-created chapter. All rights, duties, property, real or personal, and all other effects existing in the name of the Alabama Board of Cosmetology, or in any other name by which the board has been known, shall continue in the name of the Alabama Board of Cosmetology. Any reference to the Alabama Board of Cosmetology, or any other name by which the board has been known, in any existing law, contract, or other instrument shall constitute a reference to the Alabama Board of Cosmetology as created in this chapter. All actions of the Alabama Board of Cosmetology lawfully done prior to June 3, 1999, by the board or by the executive director, are approved, ratified, and confirmed. The board as constituted on June 3, 1999, shall constitute the board under this chapter."

##### **REFERENCES**

##### **CROSS REFERENCES**

As to health laws applicable to manicure or beauty shops, see §§ 22-17-1 et seq.

As to licenses for manicurists, hairdressers, etc., see § 40-12-124.

##### **ADMINISTRATIVE CODE**

4 Ala. Admin. Code 250-X-4-.01 et seq., Board of Cosmetology; Apprentices.

4 Ala. Admin. Code 250-X-5-.01 et seq., Board of Cosmetology; Reciprocity.

4 Ala. Admin. Code 250-X-6-.01 et seq., Board of Cosmetology; Schools of Cosmetology.

4 Ala. Admin. Code 250-X-7-.01 et seq., Board of Cosmetology; Mobile Cosmetological Establishment.

4 Ala. Admin. Code 250-X-8-.01 et seq., Board of Cosmetology; Schools of Manicuring.

##### **§ 34-7A-1. Definitions.**

For the purposes of this chapter, the following words and phrases shall have the following meanings:

(1) Apprentice cosmetologist. Any person who is engaged in the learning or acquiring of any or all practices of cosmetology and, while so learning, performs or assists in any of the practices of cosmetology in a licensed cosmetology salon under the direction of a master or instructor cosmetologist.

- (2) Apprentice esthetician. Any person who is engaged in the learning or acquiring of any or all practices of an esthetician and, while so learning, performs or assists in any of the practices of skin care in a licensed esthetician salon or cosmetology salon under the direction of a master or instructor esthetician, or master or instructor cosmetologist.
- (3) Apprentice manicurist. Any person who is engaged in the learning or acquiring of any or all practices of manicuring and, while so learning, performs or assists in any of the practices of manicuring in a licensed manicurist salon or cosmetology salon under the direction of a master or instructor cosmetologist or master or instructor manicurist.
- (4) Board. The Alabama Board of Cosmetology.
- (5) Booth rental. The practice of renting space within an established cosmetology salon to a sole proprietor as a legally separate business entity. A booth renter shall be a managing or master cosmetologist.
- (6) Cosmetologist. Any person, not an apprentice or a student, following or practicing cosmetology on members of the general public for compensation, and who shall have the qualifications and licensing hereinafter provided for a cosmetologist.
- (7) Cosmetologist instructor. A cosmetologist who teaches cosmetology, or any practices thereof, in a duly registered school of cosmetology.
- (8) Cosmetologist student instructor. A cosmetologist who is receiving instruction in teacher's training in a duly registered school of cosmetology.
- (9) Cosmetology. Any one or a combination of practices generally and usually performed by, and known as the profession of beauty culturists, cosmeticians, cosmetologists, hairdressers, or of any other person holding himself or herself out as practicing cosmetology by whatever designation and within the meaning of this chapter in and upon whatever place or premises; and in particular shall include, but otherwise not be limited thereby, to the following or any one or a combination of practices: arranging, dressing, curling, waxing, weaving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of any person, by any means, and/or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams or otherwise, massaging, cleansing, stimulating, exercising, beautifying, or similar work on the scalp, face, neck, arms, legs, feet, hands, bust, or upper part of the body, or manicuring the nails of any person or adding nail tips, extensions, gels, or other articles to nails, or performing desaiology, the art and science of dressing and arranging the hair, nails, and clothing of the deceased.
- (10) Cosmetology salon. Any place wherein cosmetology or any of its practices are followed, whether the place is known or designated as a cosmetician, cosmetological, or cosmetology salon or establishment or whether the person practicing cosmetology holds himself or herself out as a cosmetician, cosmetologist, or beauty culturist, or by any other name, or designation indicating that cosmetology is practiced therein. A cosmetology salon shall have a managing or master cosmetologist on duty five days a week.
- (11) Cosmetic studio. Any place where a demonstrator performs demonstrations for the advertisement or sale of cosmetics.
- (12) Credit unit hours. One credit unit hour equals one and one-fourth clock hours. A sufficient number of credit unit hours is necessary to provide a standardized curriculum in the practice of cosmetology and related practices regulated by the board.
- (13) Demonstrator. A person, not licensed in this state as a cosmetologist or cosmetologist instructor, who performs demonstrations for the advertisement or sale of

cosmetics by physically applying cosmetic preparations to the hair or body of another person.

(14) Esthetician. Any person, not an apprentice or a student, who engages in any of the following specialized practices generally recognized in the field of cosmetology: skin care, make-up artistry, facials, and body waxing.

(15) Esthetician instructor. An esthetician who teaches skin care or any practices thereof in a duly registered school of cosmetology or school for estheticians.

(16) Esthetician salon. Any place, not a cosmetology salon, wherein skin care or any of its practices are followed. An esthetician salon shall have a managing or master cosmetologist or managing or master esthetician on duty five days a week.

(17) Esthetician student instructor. An esthetician who is receiving instruction in teacher's training in skin care in a duly registered school for estheticians or school of cosmetology.

(18) Managing cosmetologist. A cosmetologist who manages or conducts a cosmetology salon or school of cosmetology.

(19) Managing esthetician. Any person who manages or conducts an esthetician salon.

(20) Managing manicurist. Any person who manages or conducts a manicurist salon.

(21) Manicurist. Any person, not an apprentice or a student, who engages only in the practice of manicuring, adding nail tips, extensions, gels, or otherwise grooming the nails of another person.

(22) Manicurist instructor. A manicurist who teaches nail care or any practices thereof in a duly registered school of cosmetology or school of manicuring.

(23) Manicurist salon or nail salon. Any place, not a cosmetology salon, wherein manicuring or any of its practices are followed. A manicurist salon shall have a managing or master cosmetologist or managing or master manicurist on duty five days a week.

(24) Manicurist student instructor. A manicurist who is receiving instruction in teacher's training in nail care in a duly registered school of manicuring or school of cosmetology.

(25) Master cosmetologist. A managing cosmetologist who has completed an approved course of study in continuing education within a licensing period and has paid an original licensing fee as established by the board. A master cosmetologist license is an optional license which may be renewed by the licensee concurrently with his or her managing license.

(26) Master esthetician. A managing esthetician who has completed an approved course of study in continuing education within a licensing period and has paid an original licensing fee as established by the board. A master esthetician license is an optional license which may be renewed by the licensee concurrently with his or her managing license.

(27) Master manicurist. A managing manicurist who has completed an approved course of study in continuing education within a licensing period and has paid an original licensing fee as established by the board. A master manicurist license is an optional license which may be renewed by the licensee concurrently with his or her managing license.

(28) Place of cosmetology. A place where cosmetology is practiced on members of the public for compensation and a place where cosmetology is taught to student apprentices.

(29) School for estheticians. Any place wherein only skin care or any of its practices are taught, whether the place is known, operated, or designated as a school for estheticians, or otherwise, indicating that skin care is taught therein to students.

(30) School of cosmetology. Any place wherein cosmetology or any of its practices are taught, whether the place is known, operated, or designated as a cosmetician or cosmetological school or establishment, or otherwise, indicating that cosmetology is taught therein to students.

(31) School of manicuring. Any place wherein only manicuring or any of its practices are taught, whether the place is known, operated, or designated as a school of manicuring, or otherwise, indicating that manicuring is taught therein to students.

(32) Shampoo assistant. Any person who is licensed as a shampoo assistant, meets all of the requirements for a health certificate, and engages only in the practices of shampooing, cleaning, or applying temporary weekly color rinses to the hair of any person.

(33) Student cosmetologist. Any person who is engaged in the learning or acquiring of any or all practices of cosmetology and, while so learning, performs or assists in any of the practices of cosmetology in a school of cosmetology under the instruction or immediate supervision of an instructor cosmetologist.

(34) Student esthetician. Any person who is engaged in the learning or acquiring of any or all practices of an esthetician and, while so learning, performs or assists in any of the practices of skin care in a school for estheticians or school of cosmetology under the instruction or immediate supervision of an instructor esthetician or instructor cosmetologist.

(35) Student manicurist. Any person who is engaged in the learning or acquiring of any or all practices of manicuring and, while so learning, performs or assists in any of the practices of manicuring in a school of manicuring or school of cosmetology under the instruction or immediate supervision of an instructor manicurist or instructor cosmetologist.

(Act 99-345, p. 478, § 3.)

#### **HISTORICAL NOTES**

##### **HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

##### **REFERENCES**

#### **ADMINISTRATIVE CODE**

4 Ala. Admin. Code 250-X-5-.02, Board of Cosmetology; Reciprocity:  
Classification of Schools.

#### **§ 34-7A-2. Penalties.**

Any person who practices, maintains a school, maintains a salon, or acts in any capacity without a certificate or license when one is required pursuant to this chapter, or who otherwise violates any provision of this chapter, shall be guilty of a misdemeanor and fined no more than five hundred dollars (\$500) or imprisoned for no more than 90 days, or both. Any corporation which acts in violation of any provision of this chapter shall be punished by a fine of no more than one thousand dollars (\$1,000).

(Act 99-345, p. 478, § 3.)

#### **HISTORICAL NOTES**

## HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

## REFERENCES

### LIBRARY REFERENCES

American Digest System:

Licenses 40.

Corpus Juris Secundum:

C.J.S. Licenses §§ 82-83; Trading Stamps and Coupons § 6.

### **§ 34-7A-3. Board of Cosmetology.**

(a) There is created the Alabama Board of Cosmetology which shall consist of seven persons appointed by the Governor, with the advice and consent of the Senate. The seven members shall consist of the seven members of the existing Board of Cosmetology. One member shall be appointed from each congressional district, as those districts are constituted on June 3, 1999. At least five of the members of the board shall be active licensed master cosmetologists or instructor cosmetologists who reside in the district he or she represents and two of the members may be consumers. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(b) The terms of all current members of the board shall continue upon June 3, 1999, and the seven-person board as constituted on that date shall continue as the board under this chapter. As terms expire, successor board members shall be appointed by the Governor, with the advice and consent of the Senate. All appointments shall be for a term of four years. No person shall serve for more than two terms on the newly-constituted board. Vacancies on the board shall be filled by the Governor, with the advice and consent of the Senate, for the unexpired terms. Any board member may be removed by the Governor for just cause.

(c) Any cosmetologist serving as a member of the board shall have at least five years of practical experience in the majority of the practices of cosmetology.

(d) The board may do all things necessary and convenient for enforcing this chapter. The board may from time to time promulgate necessary rules and regulations compatible with this chapter. The board shall compile and publish all rules and regulations, together with a copy of this chapter, and distribute the same to all licensees. Any amendment to this chapter or the rules and regulations of the board shall be published by the board and distributed to all licensees. Distributed copies shall be retained in each salon or school licensed by the board and shall be made available for inspection by salon or school personnel and the general public during normal operating hours.

(e) The board shall establish the recommended number of credit unit hours, including all phases necessary to produce competent practitioners, in each profession regulated by the board. The board shall also promulgate guidelines for approved seminars of continuing education.

(f) All rules and regulations promulgated by the board prior to June 3, 1999, are repealed. The board shall adopt rules and regulations pursuant to the Administrative Procedure Act, Chapter 22 of Title 41, to implement this chapter.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

Code Commissioner's Notes

Act 99-345, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7-1 to 34-7-47, inclusive, is continued pursuant to this newly-created chapter."

Act 2000-137, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, Code of Alabama 1975, is continued for one year, and those code sections are expressly preserved."

Act 2001-252, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, Code of Alabama 1975, is continued until October 1, 2003, and those code sections are expressly preserved."

Act 2003-57, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

Act 2004-104, § 2 provides: "The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7A-1 to 34-7A-25, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved."

### REFERENCES

#### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-1-.01 et seq., Board of Cosmetology; Administration.

4 Ala. Admin. Code 250-X-2-.08, Board of Cosmetology; Licenses:

Requirements for Continuing Education Providers.

#### LIBRARY REFERENCES

American Digest System:

Licenses 21.

Corpus Juris Secundum:

C.J.S. Licenses §§ 37-38.

#### **§ 34-7A-4. Board -- Officers, personnel.**

(a) The members of the board shall annually elect from among their membership a president, a secretary, and a treasurer. The board members, before entering upon the discharge of their duties, shall each file with the State Treasurer a good and sufficient bond in the penal sum of five thousand dollars (\$5,000), payable to the state to insure the faithful performance of his or her duties. The premium on the bond shall be paid out of the funds of the board. The bond, with the approval of the board and oath of office endorsed thereon, shall be deposited and kept within the office of the Secretary of State. The treasurer of the board shall file with the State Treasurer a good and sufficient bond in the penal sum of twenty-five thousand dollars (\$25,000), payable to the state to insure the

faithful performance of his or her duties as treasurer. The premium on the bond shall be paid out of the funds of the board.

(b) The position of executive director shall be appointed by the Governor in the unclassified service as provided for in Section 36-26-10. The executive director serving on June 3, 1999, unless appointed by the Governor on or after January 17, 1999, shall vacate his or her office immediately upon the Governor appointing an executive director to that position pursuant to this subsection. Vacancies in the position of executive director shall be filled by appointment of the Governor. The executive director shall serve at the pleasure of the Governor. The executive director shall hire all necessary employees of the board, subject to the state Merit System.

(c) Additional personnel may be employed by the board, with the approval of the executive director. A minimum of eight inspectors shall be employed by the board. Inspectors shall be paid the same mileage and per diem rate as other state employees. The compensation of personnel shall be paid out of the funds received by the board. The board shall establish job descriptions and duties for each employee, consistent with Merit System employee guidelines of the State Personnel Board.

(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

##### REFERENCES

##### LIBRARY REFERENCES

American Digest System:

Licenses 21.

Corpus Juris Secundum:

C.J.S. Licenses §§ 37-38.

#### **§ 34-7A-5. Board -- Compensation, etc.**

Each member of the board shall be paid one hundred dollars (\$100) per day for transaction of board business, not to exceed 50 days during any calendar year. The board members shall also be paid the same mileage and per diem rate as other state employees from funds received by the board. Monies deposited in the State Treasury for the benefit of the board, shall be disbursed only upon warrant of the state Comptroller upon the State Treasury, upon itemized vouchers signed by the president and treasurer of the board or their authorized designees. Any money remaining in this fund at the end of each fiscal year shall remain on deposit in the State Treasury for the use of the board.

(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

##### REFERENCES

##### LIBRARY REFERENCES

American Digest System:

Licenses 21.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 37-38.

**§ 34-7A-6. Board -- Meetings.**

The board shall meet at such times and places as a majority of the members shall agree upon. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its governance and shall adopt an official seal for the authentication of board transactions.  
(Act 99-345, p. 478, § 3.)

**HISTORICAL NOTES**  
**HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

**REFERENCES**

**LIBRARY REFERENCES**

American Digest System:  
Licenses 21.  
Corpus Juris Secundum:  
C.J.S. Licenses §§ 37-38.

**§ 34-7A-7. Application for examination or licensure.**

(a) Any person who desires to engage in any of the practices regulated by the board pursuant to this chapter shall file with the board a written application for examination or licensure. The application shall be accompanied by a certificate of health, verified by a licensed physician, specifying the dates and results of chest X-rays or skin tests performed during the year immediately preceding application. An application for examination shall include the payment of a nonrefundable fee for each examination or reexamination of an applicant.

(b) Examination of an applicant for licensure shall be conducted pursuant to a procedure prescribed by the board. The procedure shall not be confined to any specific system or method and examinations shall be consistent with the prescribed curriculum for schools.

(c) Any applicant who fails the state board examination on the first attempt may have his or her temporary permit extended until the next scheduled examination. Any applicant who fails the state board examination on the second attempt shall complete an additional 375 clock hours in the appropriate school or complete an additional 600 clock hours of training in the appropriate salon or shop before a third attempt is permitted. Any student instructor who fails the examination on two attempts shall complete an additional 650 clock hours of training before a third attempt is permitted. On a third attempt, an applicant shall be required to take the entire examination.

(d) The licensure examination of a student instructor of cosmetology, skin care, or manicuring shall be conducted by an instructor of the same profession.

(Act 99-345, p. 478, § 3.)

**HISTORICAL NOTES**  
**HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.



## REFERENCES

### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-2-.01 et seq., Board of Cosmetology; Licenses.

### LIBRARY REFERENCES

American Digest System:

Licenses 22.

Corpus Juris Secundum:

C.J.S. Licenses § 43.

### **§ 34-7A-8. Records; register of applicants.**

(a) The board shall keep a permanent record of its proceedings. That record and all other books and records maintained by the board shall be public information, shall be prima facie evidence of matters therein contained, and shall at all reasonable times be open for public inspection.

(b) The board shall keep a register of all applicants for a certificate or licensure. The register shall include, but not be limited to, all of the following information:

(1) The name, address, county of residence, and phone number of each applicant.

(2) The birth date and Social Security number of each applicant.

(3) The type of certificate or license applied for and the date of application.

(4) Whether the applicant was granted or refused a certificate or license, and if refused, the reason for the refusal.

(Act 99-345, p. 478, § 3.)

## HISTORICAL NOTES

### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

## REFERENCES

### LIBRARY REFERENCES

American Digest System:

Licenses 21, 24.

Corpus Juris Secundum:

C.J.S. Licenses §§ 37-38.

### **§ 34-7A-9. Issuance of license or permit; renewal; fees.**

(a) A license or permit issued under the seal of the board and signed by the secretary of the board shall entitle the holder to practice the profession listed on the license or permit.

(b) To receive a personal license, an applicant shall meet any of the following requirements or conditions:

(1) Satisfy legal requirements, complete required hours as an apprentice or student, pay the appropriate examination fee, pass the appropriate examination, and pay the required license fee.

(2) Be currently licensed in good standing in another state or jurisdiction, provide documentation of having passed a board approved examination, and pay the required license fee.

(3) Be currently licensed in good standing in another state or jurisdiction, provide documentation of having practiced as a licensee in the appropriate field for at least five years before application, and pay the required license fee.

(4) Be otherwise qualified, pay the appropriate examination fee, pass the appropriate examination, and pay the required license fee.

(c) A personal license shall expire on the last day of the birth month of the licensee in odd-numbered years. An application for renewal received more than five days after the expiration date shall be assessed a late penalty fee.

(d) To receive a business license, an applicant shall satisfy all legal requirements and pay the required license fee.

(e) A business license shall expire on the last day of September in odd-numbered years. An application for renewal received more than 31 days after the expiration date shall be assessed a late penalty fee.

(Act 99-345, p. 478, § 3; Act 2004-104, § 3.)

#### **HISTORICAL NOTES**

##### **HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

Amendment notes:

The 2004 amendment, effective April 8, 2004, rewrote this section.

##### **REFERENCES**

#### **ADMINISTRATIVE CODE**

4 Ala. Admin. Code 250-X-2-.01 et seq., Board of Cosmetology; Licenses.

#### **LIBRARY REFERENCES**

American Digest System:

Licenses 20, 36.

Corpus Juris Secundum:

C.J.S. Licenses §§ 39-41, 45-48.

#### **§ 34-7A-10. Payment of fees.**

Fees for examination, licensure, and certification shall be paid in advance to the board and deposited each month into the State Treasury to the credit of a fund for the use of the board.

(Act 99-345, p. 478, § 3.)

#### **HISTORICAL NOTES**

##### **HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

##### **REFERENCES**

#### **ADMINISTRATIVE CODE**

4 Ala. Admin. Code 250-X-9-.01, Board of Cosmetology; Fees.

#### **LIBRARY REFERENCES**

American Digest System:

Licenses 28.

Corpus Juris Secundum:

C.J.S. Licenses §§ 64-65.

**§ 34-7A-11. Fee schedule.**

A fee schedule established by the board shall include, but not be limited to, all of the following:

- (1) Original issuance and renewal fees for any personal license regulated by the board.
  - (2) Fees for upgrading a personal license during the renewal period and for upgrading a personal license to a manager or master license.
  - (3) Renewal fees for a personal license on inactive status.
  - (4) Fees for restoring an inactive license to active status.
  - (5) Original issuance and renewal fees for salons, booth renters, and cosmetic studios.
  - (6) Original issuance and renewal fees for schools of cosmetology, schools of manicuring, and schools for estheticians.
  - (7) Original issuance and renewal fees for applicants seeking licensure by reciprocity.
  - (8) Penalty fees for late renewal of any license.
  - (9) Examination and reexamination fees for students in public or private schools.
- (Act 99-345, p. 478, § 3.)

**HISTORICAL NOTES**

**HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

**REFERENCES**

**ADMINISTRATIVE CODE**

4 Ala. Admin. Code 250-X-9-.01, Board of Cosmetology; Fees.

**LIBRARY REFERENCES**

American Digest System:

Licenses 28.

Corpus Juris Secundum:

C.J.S. Licenses §§ 64-65.

**§ 34-7A-12. Change of name or address.**

- (a) A personal licensee shall notify the board immediately of any name or address change and the board shall retain that information on file for renewal and inspection purposes.
  - (b) Each salon, booth renter, and cosmetic studio shall notify the board immediately of any name or address change and the board shall retain that information on file for renewal and inspection purposes.
  - (c) Each salon, booth renter, and cosmetic studio which relocates to a different county shall obtain a new license from the board before moving.
- (Act 99-345, p. 478, § 3.)

**HISTORICAL NOTES**

**HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

**REFERENCES**

**LIBRARY REFERENCES**

American Digest System:

Licenses 24, 25.

Corpus Juris Secundum:

**§ 34-7A-13. School registration.**

(a) Application for school registration shall be filed with the board on forms provided by the board.

(b) No school shall be granted a certificate of registration unless all of the following requirements are satisfied:

(1) The school employs and maintains two competent instructors, at least one for every 20 students in attendance, at any one time. If the school has more than 20 students enrolled, the school shall employ an additional instructor. If the school has less than 20 students enrolled, the school shall employ one instructor and one on-call instructor.

(2) The school possesses apparatus and equipment sufficient for the proper and complete teaching of all subjects in its curriculum.

(3) The school keeps a daily attendance record of each student.

(4) The school maintains regular classes and instruction hours, establishes grades, and conducts examinations before issuing diplomas.

(5) The school requires a school term of training for a complete course with the minimum number of hours therein prescribed.

(6) The school includes practical demonstrations, theoretical studies, and study in sanitation, sterilization, other safety measures and the use of antiseptics, cosmetics, and electrical appliances, consistent with the practical and theoretical requirements applicable to cosmetology or any practice of either.

(7) The school certifies that all furniture, equipment, tools, appliances, floors, and ceilings, are kept in a clean, sanitary, and safe condition.

(c) A school that enrolls student instructors shall not have at any one time more than two student instructors for each licensed instructor actively engaged in the school. A school engaged only in the teaching of estheticians or manicurists shall not be required to provide instruction in other practices of cosmetology but shall meet all other requirements imposed by the board upon a school of cosmetology pertaining to instructors, attendance records, enrollments, and other matters.

(Act 99-345, p. 478, § 3.)

**HISTORICAL NOTES**

**HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

**REFERENCES**

**ADMINISTRATIVE CODE**

4 Ala. Admin. Code 250-X-5-.01, Board of Cosmetology; Reciprocity: Certificate of Registration for a School.

4 Ala. Admin. Code 250-X-5-.02, Board of Cosmetology; Reciprocity: Classification of Schools.

4 Ala. Admin. Code 250-X-5-.03, Board of Cosmetology; Reciprocity: School Application.

4 Ala. Admin. Code 250-X-5-.04, Board of Cosmetology; Reciprocity: Persons Desiring to Open School Must Meet with Board.

4 Ala. Admin. Code 250-X-5-.07, Board of Cosmetology; Reciprocity:  
Application for Schools.

4 Ala. Admin. Code 250-X-5-.19, Board of Cosmetology; Establishment and  
Operation of Schools.

#### LIBRARY REFERENCES

American Digest System:

Licenses 11(1), 20.

Corpus Juris Secundum:

C.J.S. Licenses §§ 34, 39-41.

#### **§ 34-7A-14. Display of certificate.**

Each holder of a certificate or license granted by the board shall display the certificate or license in a conspicuous place in his or her principal office, place of business, or place of employment, and each license or certificate shall have attached thereto a picture of the licensee made not more than three years prior to the date the license was issued.

(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

#### REFERENCES

#### LIBRARY REFERENCES

American Digest System:

Licenses 25.

Corpus Juris Secundum:

C.J.S. Licenses §§ 41, 45-46.

#### **§ 34-7A-15. Refusal, revocation, etc., of certificate or license.**

(a) The board may refuse to grant, or may revoke or suspend, a license or a certificate of registration upon proof of violation of this chapter or any rule or regulation promulgated by the board.

(b)(1) The board may, for any of the following reasons, refuse to grant or renew, or may revoke or suspend the license or certificate of registration of any applicant, licensee, or holder who:

a. Is found guilty of fraud or dishonest conduct in taking the examination.

b. Has been convicted of a felony or gross immorality, or is guilty of grossly unprofessional or dishonest conduct.

c. Is addicted to the excessive use of intoxicating liquor or to the use of drugs to an extent that he or she is rendered unfit to practice any profession regulated by the board.

d. Advertises by means of knowingly false or deceptive statements.

e. Fails to display his or her license or certificate as required by this chapter.

(2) The board may not refuse to grant, refuse to renew, revoke, or suspend any license or certificate without a hearing. The affected applicant, licensee, or holder of a certificate shall be given at least 20 days' notice in writing of the hearing, specifying the reasons for the action by the board and any offense charged. Notice may be served by registered or certified mail to the last known residence or business address of the applicant, licensee, or

holder of a certificate. The hearing shall be held in Montgomery County at a time and place prescribed by the board.

(c) In addition to any disciplinary powers authorized by this section, the board may levy and collect an administrative fine of not more than five hundred dollars (\$500) per violation for serious violations of this chapter or the rules or regulations of the board. (Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

##### REFERENCES

##### ADMINISTRATIVE CODE

4 Ala. Admin. Code 250-X-1-.01, Board of Cosmetology; Administration: Disciplinary Procedures and Actions.

4 Ala. Admin. Code 250-X-1-.02, Board of Cosmetology; Administration: Hearing Procedures.

4 Ala. Admin. Code 250-X-4-.01, Board of Cosmetology; Apprentices: Requirements.

##### LIBRARY REFERENCES

American Digest System:  
Licenses 38.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 48, 50-63.

#### **§ 34-7A-16. Findings, orders of board.**

Any finding or order of the board, obtained pursuant to an inquiry or hearing conducted before a majority of the members of the board, shall be deemed the finding or order of the board when approved and confirmed by a majority of the members of the board.

(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

##### REFERENCES

##### LIBRARY REFERENCES

American Digest System:  
Licenses 22, 38.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 43, 48, 50-63.

Law Review Articles:  
Collateral sanctions and civil disabilities: The secret barrier to true sentencing reform for legislatures and sentencing commissions. 55 Ala.L.Rev. 375 (2004).

#### **§ 34-7A-17. Appeal.**

Notwithstanding any other provision of law, a person who has exhausted all administrative remedies available through the board, other than a rehearing, and who has

been aggrieved by a final decision in a contested case, shall be entitled to an appeal in accordance with Section 41-22-20. A decision by the board to refuse to issue or renew a license, or to revoke, suspend, or otherwise restrict a license or limit or otherwise discipline a licensee, shall be subject to those provisions regarding stays pursuant to subsection (c) of Section 41-22-20. A decision that a candidate for licensure has failed any examination given by the board shall not be considered a final order reviewable by any court.

(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

#### REFERENCES

##### LIBRARY REFERENCES

American Digest System:

Licenses 22, 38.

Corpus Juris Secundum:

C.J.S. Licenses §§ 43, 48, 50-63.

#### **§ 34-7A-18. Construction of chapter.**

This chapter shall not be construed to affect or regulate the teaching of cosmetology or any of its practices in any public school.

(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

#### **§ 34-7A-19. Exemption from chapter.**

(a) This chapter shall not apply to any of the following activities or services:

(1) Service in the case of emergency or domestic administration, without compensation.

(2) Services by persons authorized under the laws of this state to practice medicine, surgery, dentistry, chiropody, osteopathy, or chiropractic or the occupation of a masseur.

(3) The services by any barber, including barber's apprentices and shop boys, when engaged in any of the following practices:

a. Arranging, cleaning, cutting, styling, dressing, curling, applying permanent curling or styling solution, waving, bleaching, coloring, applying any cosmetic chemical preparation to or singeing the hair of any person.

b. Massaging, cleansing, stimulating, exercising, or similar work upon the scalp, face, or neck of any person with the hands, or with mechanical or electrical apparatus or appliance, or by the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(4) The services of personnel of the United States Army, Navy, Air Force, or Marine Corps.

(5) The services of registered nurses doing any of the acts or works defined as cosmetology.

- (6) To the teaching or practice of cosmetology in training public school or trade school pupils.
- (7) To any person who only occasionally dresses hair and receives no compensation therefor, or does any other act or thing mentioned in this chapter without holding himself or herself out to the public as a practicing cosmetologist.
- (8) To any public trade school or other public school or school program under the purview of the State Board of Education or a local board of education.
- (9) To departments in retail establishments where cosmetics are demonstrated and offered for sale but where no other acts of cosmetology are performed.
- (b) Any person who knowingly interferes with any service, practice, or action exempted from this chapter shall be guilty of a Class A misdemeanor.
- (Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

##### REFERENCES

##### LIBRARY REFERENCES

American Digest System:  
Licenses 19(3).  
Corpus Juris Secundum:  
C.J.S. Licenses §§ 35-36.

#### **§ 34-7A-20. Duration, expiration, and reinstatement of license; records.**

- (a) No license issued by the board shall be valid for more than two years.
- (b) An expired license may be reinstated within three years after the date of expiration by paying renewal fees for the lapsed period, a current renewal fee, and a late fee.
- (c) A license which has been expired for more than three years may be reinstated by furnishing proof of prior licensure, paying the appropriate practical examination fee, passing the appropriate practical examination, and paying renewal fees for the lapsed period, a current renewal fee, and a late fee.
- (d) The record of any licensee, student, apprentice, or examination candidate who does not renew within four years or which does not indicate any activity for four years may be purged by the board.
- (Act 99-345, p. 478, § 3; Act 2004-104, § 3.)

#### HISTORICAL NOTES

##### HISTORY

Effective date:

The act which added this section is effective June 3, 1999.

Amendment notes:

The 2004 amendment, effective April 8, 2004, rewrote this section.

##### REFERENCES

##### LIBRARY REFERENCES

American Digest System:  
Licenses 22.  
Corpus Juris Secundum:



**§ 34-7A-21. Salon, shop, or booth license.**

Any person desiring to obtain a salon license, shop license, or booth license shall submit a written request to the board for an application. A salon or shop that loses its managing or master licensee shall immediately notify the board, hire a new manager or master licensee, and submit an affidavit completed by the new manager or master to the board. (Act 99-345, p. 478, § 3.)

**HISTORICAL NOTES**

**HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

**REFERENCES**

**ADMINISTRATIVE CODE**

4 Ala. Admin. Code 250-X-3-.01 et seq., Board of Cosmetology; Operation of Beauty Shops.

**LIBRARY REFERENCES**

American Digest System:

Licenses 11(1), 22.

Corpus Juris Secundum:

C.J.S. Licenses §§ 34, 43.

**§ 34-7A-22. Qualifications of applicants for examination, registration, etc.**

No person may be admitted to examination, registered, licensed, or issued a certificate by the board unless he or she possesses the following applicable qualifications:

- (1) Apprentice. A cosmetologist, esthetician, or manicurist apprentice shall be registered with the board upon beginning an apprenticeship in a licensed shop or salon and paying the original registration fee. An apprentice shall be at least 16 years of age at the time of registration and shall have an education equivalent to the completion of 10 grades in school. Any salon or shop which trains an apprentice shall immediately file with the board the name and age of the apprentice, and the board shall retain that information in a register kept for that purpose. An apprentice shall not be concurrently enrolled in a school licensed pursuant to this chapter except for six hours of theory training per week. An esthetician salon may only train an apprentice esthetician for license under the direction of a master or instructor esthetician. A manicurist salon may only train an apprentice manicurist for license under the direction of a master or instructor manicurist.
- (2) Cosmetologist. Except as otherwise provided in this chapter, no person may be licensed as a cosmetologist in any one or a combination of the practices of cosmetology unless he or she pays the original licensing fee, has an education equivalent to the completion of 10 grades in school, has passed the applicable examination to the satisfaction of the board, and has successfully completed either of the following:
  - a. A complete course of cosmetology, consisting of all or a majority of the practices thereof, in a school of cosmetology, consisting of not less than 1,200 credit unit hours nor more than 1,700 actual clock hours of continuous training, not exceeding eight hours a day, or a course of study in a public school or trade school consisting of not less than 1,200 credit unit hours nor more than 1,700 actual clock hours of training.

b. An apprenticeship in a cosmetology salon for not less than 3,000 hours of training over a maximum three year period, not exceeding eight hours a day.

(3) Cosmetologist instructor.

a. Except as otherwise provided in this chapter, no person may be licensed as an instructor in any one or a combination of the practices of cosmetology unless he or she pays the original licensing fee, is a licensed cosmetologist, and, to be eligible for admission to examination, has successfully completed either of the following:

1. Not less than 1,250 credit unit hours nor more than 1,700 actual clock hours in a teacher's training course in cosmetology in a school of cosmetology, or a course of study in a public school or trade school consisting of not less than 1,250 credit unit hours nor more than 1,700 actual clock hours of training.

2. At least one year of experience as an active practicing cosmetologist before enrollment as a student instructor, supplemented by not less than 650 hours in a teacher's training course in cosmetology in a school of cosmetology.

b. To be eligible to enroll in a teacher's training course, a cosmetologist shall have an education equivalent to the completion of 12 grades in school.

c. A cosmetologist instructor shall complete 16 hours of course study in continuing education from a board-approved seminar during each licensing period.

(4) Demonstrator. A demonstrator shall obtain a license from the board before conducting a demonstration. The requirements for a demonstrator's license include, but are not limited to, submission to the board of a health card, two photographs, a notarized application, and the applicable fee.

(5) Esthetician. Except as otherwise provided in this chapter, no person may be licensed as an esthetician unless he or she pays the original licensing fee, has an education equivalent to the completion of 10 grades in school, has passed the applicable examination to the satisfaction of the board, and has successfully completed either of the following:

a. A complete course of skin care, consisting of all or a majority of the practices thereof, in a school of cosmetology or school for estheticians, consisting of not less than 1,200 credit unit hours nor more than 1,700 actual clock hours of continuous training, not exceeding eight hours a day, or a course of study in a public school or trade school consisting of not less than 1,200 credit unit hours nor more than 1,700 actual clock hours of training.

b. An apprenticeship in a cosmetology salon or esthetician salon for not less than 3,000 hours of training over a maximum three year period, not exceeding eight hours a day.

(6) Esthetician instructor. Except as otherwise provided in this chapter, no person may be licensed as an esthetician instructor unless he or she pays the original licensing fee, is a licensed cosmetologist or esthetician, and, to be eligible for admission to examination, has successfully completed not less than 1,250 credit unit hours nor more than 1,700 actual clock hours in a teacher's training course in skin care in a school of cosmetology or school for estheticians. To be eligible to enroll in a teacher's training course, an esthetician shall have an education equivalent to the completion of 12 grades in school. An esthetician instructor shall complete 16 hours of course study in continuing education from a board-approved seminar during each licensing period.

(7) Managing cosmetologist. Except as otherwise provided in this chapter, no person may be licensed as a managing cosmetologist unless he or she pays the original licensing

fee, is a licensed cosmetologist, and has practiced as a cosmetologist in a cosmetology salon or school of cosmetology for at least one year before application.

(8) Managing esthetician. Except as otherwise provided in this chapter, no person may be licensed as a managing esthetician unless he or she pays the original licensing fee, is a licensed esthetician, and has practiced as an esthetician in a cosmetology salon, esthetician salon, school of cosmetology, or school for estheticians for at least one year before application.

(9) Managing manicurist. Except as otherwise provided in this chapter, no person may be licensed as a managing manicurist unless he or she pays the original licensing fee, is a licensed manicurist, and has practiced as a manicurist in a cosmetology salon, manicurist salon, school of cosmetology, or school of manicuring for at least one year before application.

(10) Manicurist. Except as otherwise provided in this chapter, no person may be licensed as a manicurist unless he or she pays the original licensing fee, has an education equivalent to the completion of 10 grades in school, has passed the applicable examination to the satisfaction of the board, and has successfully completed either of the following:

a. A complete course of manicuring, consisting of all or a majority of the practices thereof, in a school of cosmetology or school of manicuring, consisting of not less than 600 credit unit hours of continuous training, not exceeding eight hours a day, or a course of study in a public school or trade school consisting of not less than 600 credit unit hours of training.

b. An apprenticeship in a cosmetology salon or manicurist salon for not less than 1,200 hours of training over a maximum three year period, not exceeding eight hours a day.

(11) Manicurist instructor.

a. Except as otherwise provided in this chapter, no person may be licensed as a manicurist instructor unless he or she pays the original licensing fee, is a licensed cosmetologist or manicurist, and, to be eligible for admission to examination, has successfully completed either of the following:

1. Not less than 1,250 actual clock hours in a teacher's training course in manicuring in a school of cosmetology or school of manicuring, or a course of study in a public school or trade school consisting of not less than 1,250 actual clock hours of training.

2. At least one year of experience as an active practicing cosmetologist or manicurist before enrollment as a student instructor, supplemented by not less than 650 hours in a teacher's training course in cosmetology or manicuring in a school of cosmetology or school of manicuring.

b. To be eligible to enroll in a teacher's training course, a manicurist shall have an education equivalent to the completion of 12 grades in school.

c. A manicurist instructor shall complete 16 hours of course study in continuing education from a board-approved seminar during each licensing period.

(12) Master cosmetologist or master esthetician or master manicurist. Any person licensed as a managing cosmetologist, managing esthetician, or managing manicurist, who pays the original licensing fee and completes a course of study in continuing education approved by the board within a licensing period, may be issued a master license. The master license is an optional license available upon renewal to those licensees who voluntarily complete the continuing education requirements.

(13) Student cosmetologist.

a. Upon certification of enrollment by a school of cosmetology, the name and birth date of each student cosmetologist shall be entered by the board in a register kept for that purpose. A student cosmetologist shall be at least 16 years of age at the time of registration and shall have an education equivalent to the completion of 10 grades in school. Registration with the board shall be on forms provided by the board.

b. A student who has completed 70 percent of the required school instructional hours may, when school is not in session, work in a cosmetology salon. One student trainee shall be allowed for the first master or managing cosmetologist and one additional student trainee shall be allowed for each three additional cosmetologists on staff.

c. Within 90 days after a student completes the required school instructional hours and training, the appropriate instructor shall schedule an examination of the student with the board. If application for examination is not received within the 90 day period, the applicable instructional hours and training shall be invalidated.

(14) Student esthetician. Upon certification of enrollment by a school of cosmetology, or school for estheticians, the name and birth date of each student esthetician shall be entered by the board in a register kept for that purpose. A student esthetician shall be at least 16 years of age at the time of registration and shall have an education equivalent to the completion of 10 grades in school.

(15) Student instructor. Upon certification of enrollment by a school of cosmetology, school for estheticians, or school of manicuring, the name, birth date, and qualifications of each student instructor shall be entered by the board in a register kept for that purpose. At the time of enrollment, a student instructor shall be licensed as a cosmetologist, esthetician, or manicurist and shall have an education equivalent to the completion of 12 grades in school. Upon completing the instructional course prescribed for student instructors, a student instructor may apply to the board for examination, on a form provided by the board, and pay any applicable examination fee. Any applicant who passes the examination to the satisfaction of the board and pays the original licensing fee of an instructor shall be issued an instructor's license by the board. A school for estheticians may only train esthetician student instructors for licensure. A school of manicuring may only train manicurist student instructors for licensure.

(16) Student manicurist. Upon certification of enrollment by a school of cosmetology or school of manicuring, the name and birth date of each student manicurist shall be entered by the board in a register kept for that purpose. A student manicurist shall be at least 16 years of age at the time of registration and shall have an education equivalent to the completion of 10 grades in school.

(Act 99-345, p. 478, § 3.)

#### **HISTORICAL NOTES**

##### **HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

##### **REFERENCES**

##### **ADMINISTRATIVE CODE**

4 Ala. Admin. Code 250-X-2-.02, Board of Cosmetology; Licenses:  
Cosmetologist/Manicurist/Esthetician.

4 Ala. Admin. Code 250-X-2-.03, Board of Cosmetology; Licenses: Managing License.

4 Ala. Admin. Code 250-X-2-.04, Board of Cosmetology; Licenses: Master License.

4 Ala. Admin. Code 250-X-2-.05, Board of Cosmetology; Licenses: Instructor License.

4 Ala. Admin. Code 250-X-2-.08, Board of Cosmetology; Licenses: Requirements for Continuing Education Providers.

4 Ala. Admin. Code 250-X-4-.01, Board of Cosmetology; Apprentices: Requirements.

4 Ala. Admin. Code 250-X-5-.16, Board of Cosmetology; Instructor Qualifications.

#### LIBRARY REFERENCES

American Digest System:  
Licenses 20.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 39-41.

#### **§ 34-7A-23. Teacher's permit.**

The board may issue a teacher's permit to any person licensed to practice in any field related to cosmetology, skin care, or manicuring. Before a permit is issued, the licensee shall apply to the board, pay the applicable fee, and provide proof of qualifications. A teacher's permit entitles the holder to teach theory only in the field in which he or she is licensed to practice.

(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### **HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

#### **REFERENCES**

#### LIBRARY REFERENCES

American Digest System:  
Licenses 11(1), 20.

Corpus Juris Secundum:  
C.J.S. Licenses §§ 34, 39-41.

#### **§ 34-7A-24. Licensure, etc., under former chapter.**

For the purposes of this chapter, any person or entity properly licensed, certified, or registered by the Alabama Board of Cosmetology on June 3, 1999, shall be similarly licensed, certified, or registered by the Alabama Board of Cosmetology as created by this chapter, without penalty, for the time remaining on the license of the licensee.

(Act 99-345, p. 478, § 3.)

#### HISTORICAL NOTES

##### **HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

**§ 34-7A-25. Continuation of board.**

The existence and functioning of the Alabama Board of Cosmetology, created and functioning pursuant to Sections 34-7-1 to 34-7-47, inclusive, is continued pursuant to the this newly-created chapter. All rights, duties, property, real or personal, and all other effects existing in the name of the Alabama Board of Cosmetology, or in any other name by which the board has been known, shall continue in the name of the Alabama Board of Cosmetology. Any reference to the Alabama Board of Cosmetology, or any other name by which the board has been known, in any existing law, contract, or other instrument shall constitute a reference to the Alabama Board of Cosmetology as created in this chapter. All actions of the Alabama Board of Cosmetology lawfully done prior to June 3, 1999, by the board or by the executive director, are approved, ratified, and confirmed. The board as constituted on June 3, 1999, shall constitute the board under this chapter. (Act 99-345, p. 478, § 2.)

**HISTORICAL NOTES**

**HISTORY**

Effective date:

The act which added this section is effective June 3, 1999.

**REFERENCES**

**LIBRARY REFERENCES**

American Digest System:

Licenses 21.

Corpus Juris Secundum:

C.J.S. Licenses §§ 37-38.

## Board Members



### **ALABAMA BOARD OF COSMETOLOGY**

**RSA Union Building**  
**100 N. Union Street, Suite 320**  
**Montgomery, AL 36130-1750**  
**334-242-1918 Office Toll Free 1-800-815-7453**  
**334-242-1926 Fax**  
**cosmetology@aboc.state.al.us**

**Bob McKee**  
**Executive Director**

**Claire B. Mitchell**  
**Chairman**

June 2, 2005

Below are the present Members serving on the Alabama Board of Cosmetology and the Official. Currently, there are three positions on the Board that need appointment. One member continues to serve until a successor has been appointed and confirmed.

<b><u>Board Member</u></b>		<b><u>Term Expires</u></b>
Hon. Claire B. Mitchell Chairman	District VII Bessemer, AL	March 2006
Hon. Vivian Stewart	District II Opp, AL	May 2005
Hon. Tim Mitchell	District VI Alabaster, AL	March 2006
Hon. Janie Cheatham	District V April 2006	April 2006
Hon. Nancy Fair	District IV Gordo, AL	May 2006

### **Official**

Mr. Bob McKee Executive Director Phone: 334-242-1918 FAX: 334-242-1926	Alabama Board of Cosmetology 100 North Union Street, Suite 320 Montgomery, AL 36130-1750	Indefinite
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Districts I, II, and III positions need appointments.

Sincerely,

**Bob McKee**  
**Executive Director**